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Attorneys for Defendant ALLSAINTS USA LIMITED

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

MIRANDA VAROZ, on behalf of herself
and all others similarly situated,

Plaintiff,

vs.

ALLSAINTS USA LIMITED, a foreign
business corporation, doing business in
California as ALLSAINTS SPITALFIELDS
USA RETAIL LTD, and DOES 1 through
50 inclusive,
Defendants.

Case No. 3:16-cv-02597-MMA-AGS

**THIRD JOINT MOTION TO
EXTEND DEFENDANT'S TIME
TO RESPOND TO COMPLAINT**

Hon. Michael M. Anello
COURTROOM 3A

Action Filed: September 19, 2016
Action Removed: October 19, 2016

WHEREAS, on September 19, 2016, Miranda Varoz ("Plaintiff") filed her Complaint against Defendant AllSaints USA Limited ("AllSaints") in the Superior Court of California, County of San Diego, Case Number 37-2016-00032584-CU-MC-CTL;

WHEREAS, on October 19, 2016, Defendant filed a Notice of Removal in the United States District Court for the Southern District of California pursuant to 28 U.S.C. §§ 1441 and 1446, asserting federal question jurisdiction under 28 U.S.C. § 1331 and jurisdiction under the Class Action Fairness Act ("CAFA"), 28 U.S.C.

1 §§ 1332(d), 1453, 1711 – 1715;

2 WHEREAS, Plaintiff and AllSaints agreed to a 30-day extension of
3 AllSaints’ deadline to answer, move or otherwise respond to the Complaint and
4 jointly moved for an order of the Court extending AllSaints’ deadline [Dkt. No. 4],
5 which the Court granted on October 25, 2016 [Dkt. No. 5], setting November 28,
6 2016 as AllSaints’ deadline to answer, move or otherwise respond to the Complaint;

7 WHEREAS, on November 3, 2016, AllSaints filed a Notice of Related Cases
8 [Dkt. No. 8], which contends that this action is related, as provided under Civil
9 Local Rule 40.1(f) and (g), to the putative class action currently pending against
10 AllSaints in the United States District Court for the Northern District of Illinois,
11 Eastern Division, titled *Barbara Mocek v. AllSaints USA Limited*, Case No. 16-cv-
12 8484 (the “*Mocek* Action”);

13 WHEREAS, AllSaints moved, pursuant to Federal Rule of Civil Procedure
14 12(b)(1) and (6), to dismiss the complaint filed in the *Mocek* Action;

15 WHEREAS, Plaintiff and AllSaints agreed that it might benefit both parties to
16 await the decision on AllSaints’ motion to dismiss pending in the *Mocek* Action
17 before committing party, and perhaps judicial, resources to AllSaints’ answer or
18 response to Plaintiff’s complaint in this matter;

19 WHEREAS, Plaintiff and AllSaints agreed to a 30-day extension of
20 AllSaints’ deadline to answer, move or otherwise respond to the Complaint to
21 accommodate the anticipated ruling on AllSaints’ motion to dismiss pending in the
22 *Mocek* Action and jointly moved for an order of the Court extending AllSaints’
23 deadline [Dkt. No. 10], which the Court granted on November 18, 2016 [Dkt. No.
24 12], setting December 28, 2016 as AllSaints’ deadline to answer, move or otherwise
25 respond to the Complaint;

26 WHEREAS, the court presiding over the *Mocek* Action was originally
27 scheduled to issue its ruling on AllSaints’ motion to dismiss on November 30, 2016,
28 but subsequently continued that date and issued its ruling on December 7, 2016;

1 WHEREAS, Plaintiff and AllSaints agree that it may benefit both parties to
2 consider the recently issued decision on AllSaints' motion to dismiss in the *Mocek*
3 Action before committing party, and perhaps judicial, resources to AllSaints' answer
4 or response to Plaintiff's complaint in this matter, and in light of the upcoming
5 holidays; and

6 WHEREAS, AllSaints requested from Plaintiff, and Plaintiff agreed to, a brief
7 16-day extension of AllSaints' deadline to answer, move or otherwise respond to the
8 Complaint.

9 NOW, THEREFORE, IN LIGHT OF THE FOREGOING, IT IS HEREBY
10 STIPULATED AND AGREED, subject to the Court's approval, by and among the
11 parties hereto, through their undersigned counsel, that AllSaints' deadline to answer,
12 move or otherwise respond to the Complaint is extended until January 13, 2017.
13 The parties hereto further agree that this joint motion shall not be construed as a
14 waiver of AllSaints' venue, jurisdictional, or other challenges to the Complaint, or
15 an admission of any of the allegations or legal theories asserted in it or any liability
16 whatsoever to Plaintiff or the class she purports to represent.

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20 DATED: December 15, 2016

CARLSON LYNCH SWEET KILPELA &
CARPENTER, LLP

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24
25 By: _____ s/ Todd D. Carpenter

Todd D. Carpenter

26 Attorneys for Plaintiff Miranda Varoz

27 Email: tcarpenter@carlsonlynch.com

1 DATED: December 15, 2016

PROSKAUER ROSE LLP

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3
4 By: s/ Ronald A. Valenzuela
Ronald A. Valenzuela

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6 Attorneys for Defendant
7 AllSaints USA Limited
Email: rvalenzuela@proskauer.com
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11 **Signature Certification**

12 Pursuant to Section 2(f)(4) of the Electronic Case Filing Administrative
13 Policies and Procedures Manual, I hereby certify that the content of this document is
14 acceptable to Todd D. Carpenter, counsel for Plaintiff, and that I have obtained Mr.
15 Carpenter's authorization to affix his electronic signature to this document.
16

17 DATED: December 15, 2016

PROSKAUER ROSE LLP

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21 By: s/ Ronald A. Valenzuela
Ronald A. Valenzuela

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23 Attorneys for Defendant
24 AllSaints USA Limited
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